

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

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Complaint on Post E.C.S.)

" Docket No. C99-1

ANSWER OF COALITION AGAINST UNFAIR USPS COMPETITION  
IN RESPONSE TO MOTION OF THE UNITED STATES  
POSTAL SERVICE FOR RECONSIDERATION OR ALTERNATIVE RELIEF

(March 9, 1999)

The Coalition Against Unfair USPS Competition (CAUUC) hereby responds to the Motion of the Postal Service for Reconsideration or Alternative Relief. This response is filed following issuance of Commission Order No. 1230 and the Postal Service's Partial Response filed March 3, 1999.

The information that the Postal Service objects to providing is apparently software license and development material. USPS Motion at 3. As usual, the Postal Service states that these are "highly sensitive commercial information." Id. at 3-4. Resolution of this matter is not critical to the resolution of the Postal Service's Motion to Dismiss. This Motion is a matter of law and more than **sufficient** factual information is already in the record for the Commission to deny this motion. Since a Motion to Dismiss must be construed against the moving party, this material in question need only be made available for the disposition of the USPS Motion to Dismiss should the Commission deem it critical to deciding that Motion.

CAUUC believes that the current record clearly demonstrates that Post E.C.S. is a postal service. The Commission should deny the Postal Service's Motion to Dismiss and entertain the Complaint as filed by United Parcel Service joined in by CAUUC. This pleading does not comment on the issue of discovery of any material which the Postal Service seeks to protect. That issue must be dealt with at the appropriate period for discovery in this proceeding. CAUUC does not intend to limit itself regarding discovery on any of these documents at that point.

WHEREFORE, the Coalition Against Unfair USPS Competition respectfully requests that the Commission: (1) deny the Postal Service Motion to Dismiss and in the alternative grant the relief requested in the Complaint. The Postal Service Motion for Reconsideration as to Commission Request No. 4(a) should only be granted so as not to prejudice the issue of future discovery of this material as part of the consideration of the Complaint.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Silver', is written over a horizontal line.

Steve Silver  
Attorney for CAUUC

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Certificate of Service

I HEREBY CERTIFY I have this date served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.

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Steven W. Silver